

# **ADDITIONAL PROTOCOL 7 ON DISPUTE SETTLEMENT TO THE AGREEMENT ON AMENDMENT AND ACCESSION TO THE CENTRAL EUROPEAN FREE TRADE AGREEMENT**

## **Preamble**

The Parties to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement (CEFTA):

1. Considering Annex 1 to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement (hereinafter referred to as "CEFTA 2006"), notably Articles 42 and 43 thereof, as well as Annex 8 on 'Appointment of the Mediator' and Annex 9 on 'Constitution and Functioning of the Arbitral Tribunal' thereto;
2. Having resolved to eliminate obstacles to trade within CEFTA and to progressively deepen the trade relations within the spirit of the General Evolutionary clause of the CEFTA 2006 contained in Article 45 thereof; and
3. Considering the Parties' interest in a more structured approach to consultations, mediation, and dispute resolution within CEFTA as foreseen by this Additional Protocol 7 (hereinafter referred to as this "Protocol");

have agreed as follows.

## **Section I: Initial Provisions**

### **Article 1 Definitions**

For the purposes of this Protocol, the following definitions shall apply:

- a. "adviser" means a natural person who is retained by a disputing party to advise or assist that party in a proceeding under this Protocol;
- b. "any means" refers to the means through which proceedings under this Protocol may be conducted, including in person meetings and/or electronic communications;
- c. "assistant" means a natural person who conducts research for or provides assistance to a Panel in a proceeding;
- d. "business-confidential information" and "highly sensitive business-confidential information" means any business or proprietary information that a disputing party or third party has designated as such, regardless of whether contained in a document provided by a public or private body, because it is not otherwise available in the public domain and its disclosure could, in the disputing party's or third party's view, cause exceptional harm to the rightful holder of the information. Each disputing party or third party shall act in good faith and exercise restraint in designating information as "business-confidential" or "highly sensitive business-confidential";

- e. "candidate" means a natural person whose name is on the list of Panel members pursuant to Article 20 of this Protocol or on the list of chairpersons of a Panel pursuant to Article 21 of this Protocol and who is under consideration for selection as a member or chairperson of a Panel;
- f. "CEFTA Agreement" means the "Agreement on Amendment of and Accession to the Central European Free Trade Agreement", signed on 19 December 2006, including its Annexes and the Additional Protocols to the CEFTA Agreement, as well as the legal instruments based thereon;
- g. "CEFTA 2006" means the consolidated version of the "Central European Free Trade Agreement" contained in Annex 1 to the CEFTA Agreement;
- h. "chairperson" means the Panel member who presides over the meetings and hearings of a Panel in a proceeding;
- i. "Code of Conduct" means the rules laid down in Appendix II to this Protocol that apply to candidates and Panel members;
- j. "compliance report" means a report issued by a Panel reconvened in case of a disagreement on compliance or equivalence pursuant to Article 31 of this Protocol;
- k. "confidential information" means any information other than "business-confidential information" and "highly sensitive business-confidential information" that is required under this Protocol to be treated as confidential or that a disputing party or a third party has designated as such;
- l. "consulting party" means a Party that participates in consultations pursuant to Section III of this Protocol;
- m. "day" means a calendar day, unless otherwise specified;
- n. "disputing party" means a Party that participates in proceedings before a Panel, including with respect to its composition pursuant to Article 18 of this Protocol;
- o. "document" means a notification, request, written submission, or any other document related to a proceeding under this Protocol;
- p. "mediator" means a natural person who conducts a mediation proceeding pursuant to Section II of this Protocol;
- q. "mediation procedures" means the rules laid down in Section II of this Protocol that apply to mediation proceedings;
- r. "nominating Party" means a Party that establishes a list of individuals who are willing and able to serve as Panel members pursuant to Articles 20 and 21 of this Protocol;
- s. "official holiday" means every Saturday and Sunday and any other day designated by a Party as a public holiday;
- t. "party or parties concerned" means a disputing party or the disputing parties, and a third party or the third parties;
- u. "Party" or "Parties" means a Party or the Parties to the CEFTA Agreement;

- v. “proceeding”, unless otherwise specified, means a dispute settlement proceeding undertaken in accordance with Section IV of this Protocol;
- w. “representative of a party” means any natural person who is appointed by a Party and duly authorized to represent that Party in a proceeding under this Protocol.
- x. “requesting party” means a Party that requests good offices or conciliation pursuant to Article 5 of this Protocol, mediation pursuant to Article 8 of this Protocol, consultations pursuant to Article 15 of this Protocol, or the establishment of a Panel pursuant to Article 16 of this Protocol;
- y. “responding party” means a Party to which a request for mediation or consultations is addressed pursuant to Article 8 of this Protocol and Article 15 of this Protocol or to which a request for the establishment of a Panel is addressed pursuant to Article 16 of this Protocol ;
- z. “Rules of Procedure” means the rules laid down in Appendix I to this Protocol that apply to proceedings before a Panel; and
- aa. “third party” means a CEFTA Party other than the consulting or the disputing parties.

## **Article 2 Cooperation**

1. Parties shall, at all times, make their best efforts to agree on the interpretation and application of the CEFTA Agreement and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of the CEFTA Agreement.
2. Prior to launching formal dispute settlement procedures, Parties shall endeavour to reach a mutually satisfactory resolution using the consultative tools available within the CEFTA framework.
3. Parties may continue to use such consultative tools, while formal dispute settlement is taking place, with a view to reach a mutually satisfactory resolution to the dispute.

## **Article 3 Scope**

This Protocol shall apply to any dispute between two or more Parties concerning the interpretation or application of the CEFTA Agreement.

## **Article 4 Choice of Forum**

1. Where a Party has initiated dispute settlement proceedings under this Protocol, it may not initiate dispute settlement proceedings under another international trade agreement to which the disputing parties are party, including the WTO Agreement, concerning the same matter, unless the Panel established under this Protocol fails, for jurisdictional or procedural reasons other than a termination of the dispute settlement proceedings pursuant to Article 25 of this Protocol , to make findings on that dispute.

2. Dispute settlement proceedings under this Protocol are deemed to be initiated by the request of a Party for the establishment of a Panel under Article 16 of this Protocol.
3. Dispute settlement proceedings under the WTO Agreement are deemed to be initiated by the request of a Party for the establishment of a Panel under Article 6 of the WTO Dispute Settlement Understanding.
4. Dispute settlement proceedings under any other international trade agreement are deemed to be initiated by the request of a Party for the establishment of a Panel in accordance with the dispute settlement provisions of that agreement.

#### **Article 5 Good Offices and Conciliation**

1. Good offices and conciliation are procedures that may be undertaken voluntarily if the parties to a dispute so agree.
2. Upon request of the parties to a dispute, any individual or entity selected by the requesting parties may provide good offices or act as conciliator.
3. Proceedings involving good offices and conciliation, notably the positions taken therein by the parties to a dispute, shall be confidential and without prejudice to the rights of either Party in any further proceedings under this Protocol.
4. Good offices and conciliation may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time.
5. If the parties to a dispute agree, procedures for good offices or conciliation may continue while the panel process under Section IV of this Protocol continues.

### **Section II: Mediation Procedures**

#### **Article 6 Mediation**

Parties may have recourse to mediation regarding any matter referred to in Article 3 of this Protocol, except for proposed measures. Mediation proceedings are without prejudice to Parties' rights in any other proceedings under the CEFTA Agreement or another international trade agreement to which the Parties are party, including the WTO Agreement.

#### **Article 7 Objective of Mediation**

Mediation in accordance with this Section aims at assisting the parties to a dispute in reaching a mutually satisfactory resolution of any dispute referred to in Article 3 of this Protocol with the assistance of a mediator.

**Article 8**  
**Initiation of the Mediation Proceeding**

1. A Party may request in writing any other Party to enter into a mediation proceeding. Such request shall be addressed to the other Party and, at the same time, shall be notified to the Joint Committee.
2. A request made under Paragraph 1 of this Article shall identify the specific measure at issue, provide a detailed description of the application of the measure at issue, and shall present clearly the concerns of the Party requesting mediation with that measure.
3. The mediation proceeding may only be initiated by consent of the parties to a dispute. When a Party requests a mediation proceeding pursuant to Paragraph 1 of this Article, the other Party shall give good faith consideration to the request and shall reply in writing within 10 days of the date of receipt of the request.

**Article 9**  
**Selection of the Mediator**

1. Upon the initiation of the mediation proceeding under Article 8(3) of this Protocol, the parties to the dispute shall agree on the mediator from the commonly agreed list of mediators under Article 41, Paragraph 6, of the CEFTA 2006 within 10 days of the date of receipt of the reply to the request for mediation. If the parties to the dispute cannot agree on the mediator within the timeframe under the first sentence, any party to the dispute may request the chair of the Joint Committee to draw by lot the mediator from the commonly agreed list of mediators under Article 41, Paragraph 6, of the CEFTA 2006 within 5 days of the date of receipt of the request.
2. The mediator shall not be from either party to the dispute, unless the parties to the dispute agree otherwise.
3. The mediator shall avoid any direct and indirect conflicts of interests and may be requested by the parties to the dispute to sign a declaration to this end.
4. The mediator shall assist in an impartial, independent, and transparent manner, the parties to the dispute in bringing clarity to the dispute and in reaching a mutually satisfactory resolution of the dispute.
5. The Code of Conduct under Appendix II to this Protocol shall apply, *mutatis mutandis*, to the mediator.

**Article 10**  
**Rules of the Mediation Proceeding**

1. The mediation proceeding shall be held by any means agreed by the parties to the dispute. When held in person, it shall take place in a location agreed by the parties to the dispute. In relevant part, Articles 1 and 14 of the Rules of Procedure under Appendix I to this Protocol shall apply, *mutatis mutandis*, to the mediation proceeding unless otherwise agreed by the parties to the dispute.

2. Within 10 days of the selection of the mediator under Article 9(1) of this Protocol, the responding party shall provide, in writing, its comments to the mediator and to the requesting party.
3. The mediator may decide on the most appropriate way of bringing clarity to the dispute. In particular, the mediator may, by any means agreed by the parties to the dispute, organise meetings between the parties to the dispute, consult with the parties to the dispute jointly or individually, seek the assistance of or consult with relevant experts and stakeholders, and provide any additional support requested by the parties to the dispute. Before engaging in such activities, the mediator shall seek the consent of the parties to the dispute, including on any possible costs.
4. At the latest 15 days after the date of receipt of the written comments under Paragraph 2 of this Article and following the engagement with the Parties to the dispute under Paragraph 3 of this Article, the mediator shall issue a draft written report, providing a brief summary of the measure at issue in these procedures, the procedures followed, the views expressed by the parties to the dispute, experts and stakeholders, where relevant, and any mutually agreed solution reached as the final outcome of these procedures, including possible interim solutions. The mediator shall allow the parties to the dispute 10 days to comment on the draft report. After considering the comments of the parties to the dispute submitted within that period, the mediator shall submit a final written report to the parties to the dispute within 10 days.
5. Within 5 days of the date of receipt of the final report, the parties to the dispute shall inform the mediator in writing whether they accept or reject the solution proposed in the report as a mutually satisfactory resolution of the dispute. The parties to the dispute shall submit the final report to the Joint Committee.
6. The mediation proceeding shall be terminated:
  - a. at any stage of the proceeding by request, in writing, of any of the parties to the dispute;
  - b. by the date of the mutual acceptance, in writing, by the parties to the dispute of a solution proposed in the report of the mediator as a mutually satisfactory resolution of the dispute;
  - c. by the date of the rejection in writing to the mediator and the other party by a party to the dispute of a solution proposed in the report of the mediator as a mutually satisfactory resolution of the dispute; or
  - d. by a written declaration of the mediator, after consultation with the parties to the dispute, that further efforts at mediation are not conducive to a mutually satisfactory solution of the dispute.

**Article 11**  
**Implementation of a Mutually Agreed Solution**

1. Where the parties to the dispute have accepted, in writing, the solution proposed in the report of the mediator as a mutually satisfactory resolution of the dispute, each party to the dispute shall take the measures necessary to implement that solution within the agreed timeframe.
2. The implementing party shall inform the other party and the Joint Committee in writing of any measure taken to implement the solution.

**Article 12**  
**Confidentiality of Mediation and Relationship to Dispute Settlement Proceedings**

1. Unless the parties to the dispute agree otherwise, the mediation proceeding, including the report of the mediator, is confidential. The obligation of confidentiality does not extend to factual information already existing in the public domain.
2. A party to the dispute shall not rely on or introduce as evidence in dispute settlement proceedings under this Protocol or any other international trade agreement to which the parties to the dispute are party, nor shall a Panel take into consideration:
  - a. positions taken by the other party to the dispute in the mediation proceeding or information gathered by the mediator under Article 10(3) of this Protocol; or
  - b. a report issued or a solution proposed by the mediator under Article 10(4) of this Protocol.
3. A mediator may not serve as a Panel member in a dispute settlement proceeding under this Protocol or the WTO Agreement involving the same dispute for which that person has served as a mediator.

**Article 13**  
**Time Periods**

Any deadline referred to in Articles 8, 9, and 10 of this Protocol may be modified by agreement between the parties to the dispute.

**Article 14**  
**Costs of the Mediation Procedure**

1. Each party to the dispute shall bear its own costs derived from the participation in the mediation procedure.
2. The remuneration of the mediator shall correspond to that of a Panel member pursuant to Article 15(6) of Appendix I.
3. The parties to the dispute shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the mediator and any other expenses in the context of the mediation proceeding.

**Section III: Consultations**

**Article 15**  
**Consultations**

1. A Party may request in writing consultations with any other Party regarding any matter referred to in Article 3 of this Protocol.
2. The requesting party shall transmit the request to the responding party. At the same time, the requesting party shall notify the request to the Joint Committee. In its request, the requesting

party shall set out the reasons for the request, including an identification of the specific measure at issue and the legal basis for the complaint.

3. The requesting and responding parties shall enter into consultations as soon as possible and, at the latest, within 15 days of the date of receipt by the responding party of the request, except in cases of urgency. In cases of urgency, including those involving perishable or seasonal goods or services that rapidly lose their trade value, consultations shall commence within 5 days of the date of receipt of the request by the responding party.
4. Any Party, other than the requesting and responding parties, that considers it has an interest in the matter, may submit a written request to participate in the consultations explaining its interest in the matter to the consulting parties and to the Joint Committee within five days of the date of circulation of the request for consultations. Such Party shall be joined in the consultations, provided that the party to which the request for consultations was addressed agrees, within 5 days from the receipt of such request, that the claim of interest is well-founded. In that event, the party to which the request for consultations was addressed shall so inform the Party requesting to join the consultations and the Joint Committee.
5. The consulting parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter through consultations. To this end, each consulting party shall provide sufficient information to enable a full examination of the matter at issue and shall protect any confidential, business-confidential, or highly sensitive business-confidential information exchanged in the course of consultations, as requested by the Party providing the information. Each consulting party shall make available personnel of its authorities or other regulatory bodies that have expertise in the matter at issue.
6. Consultations shall be held by any means agreed between the consulting parties. When held in person, they shall take place in a location agreed by the consulting parties.
7. Consultations are confidential and without prejudice to the rights of any Party in any further proceedings under the CEFTA Agreement.

## **Section IV: Dispute Settlement Procedures**

### **Article 16 Establishment of a Panel**

1. A Party may request, by means of a written notification addressed to the responding party, the establishment of a Panel if consultations under Section III of this Protocol have failed to resolve the dispute within 60 days of the date of receipt of the request for consultations, or, in cases of urgency, within 45 days of the date of receipt of the request for consultations. At the same time, the requesting party shall notify its request to the Joint Committee.
2. In its request, the requesting party shall identify the specific measure at issue and the legal basis for the complaint, including an explanation of how the measure at issue constitutes a breach of the CEFTA Agreement and an indication on whether consultations were held. In case the requesting party requests the establishment of a Panel with other than the standard terms of reference as per Article 17 of this Protocol, the written request shall include the proposed text of special terms of reference.

3. The date of establishment of a Panel shall be the date on which the last Panel member is selected under Article 18 of this Protocol.
4. A Panel may not be established to review a proposed measure.
5. Where more than one Party requests the establishment of a Panel regarding the same matter, a single Panel should be established to examine the complaints whenever feasible.
6. If more than one Panel are established to examine the complaints regarding the same matter, to the greatest extent possible the same persons shall serve as members on each of the separate Panels and the timetable for the Panel proceedings in such disputes shall be harmonised.

#### **Article 17** **Terms of Reference**

1. Unless the disputing parties agree otherwise within 5 working days of the date of establishment of the Panel under Article 16 of this Protocol, the standard terms of reference of the Panel shall be:

*“To examine, in the light of the provisions of the CEFTA Agreement, the dispute referred to in the request for the establishment of the Panel, and to make findings, determinations and rulings in accordance with the Additional Protocol 7.”*

2. If other than the standard terms of reference are agreed by the disputing parties, such terms of reference shall be notified to the Panel within 3 working days after their agreement.
3. The Panel may rule on its own jurisdiction on the basis of the terms of reference.

#### **Article 18** **Composition of the Panel**

1. The Panel shall be composed of three members selected or drawn with a view to ensure substantive expertise of relevance to the specific dispute at issue.
2. The disputing parties shall consult with a view to reaching an agreement on the composition of the Panel within 10 days of the date of receipt of the request for the establishment of the Panel under Article 16 of this Protocol.
3. If the Panel is not composed within the time frame set out in Paragraph 2, any disputing Party may request the Chair of the Joint Committee to draw by lot the Panel members from the lists established under Articles 20 and 21 of this Protocol. The Chair of the Joint Committee shall draw the Panel members within 5 days of the date of receipt of the request. If the Panel is not composed within 5 days of the date of receipt of the request, the CEFTA Secretariat shall draw by lot the Panel members from the lists established under Articles 20 and 21 of this Protocol without undue delay. The Chair of the Joint Committee or the CEFTA Secretariat shall invite and give a reasonable opportunity to representatives of each disputing party to be present, by any means, when the lots are drawn. One Panel member shall be drawn from the list of the requesting party, one Panel member shall be drawn from the list of the responding party, and one Panel member shall be drawn from the list of chairpersons.

4. If there are two or more requesting parties, the lists of each of the requesting parties shall be combined in order to draw one Panel member from the combined list.
5. Where a disputing party failed to notify its list under Article 20 of this Protocol, the Panel member shall be drawn from the list established under Article 21 of this Protocol, including in a case where a disputing party failed to nominate any individual for the list under Article 21 of this Protocol. In case no list has been established under Article 21, the Panel Member shall be drawn from the lists of Panel members notified by the non-disputing parties.
6. In case the chairperson is drawn by lot, the CEFTA Secretariat shall prepare the lists accordingly ahead of the draws and the following shall apply:
  - a. In the case of one complainant, the chairperson shall be drawn by lot from a list comprising only potential chairpersons from within CEFTA and only from lists of non-disputing parties. In case any of the disputing parties disagrees on the selected chairperson, the chairperson shall be drawn again by lot from a list comprising only potential chairpersons coming from outside of CEFTA and shall not be drawn from the list of any of the disputing CEFTA Parties.
  - b. In the case of multiple complainants, the chairperson shall be drawn by lot from a list comprising only potential chairpersons coming from outside of CEFTA and the lot shall not contain any potential chairperson from the list of disputing CEFTA Parties. In case all CEFTA Parties are disputing parties, the lot shall comprise potential chairpersons coming from outside of CEFTA from the lists of all CEFTA Parties.
7. An individual may not serve as a Panel member in a dispute in which she or he has previously been involved in any capacity.
8. A Panel member may be replaced only for the reasons and in accordance with Article 12 of Appendix I to this Protocol.

**Article 19**  
**Qualification of Panel Members**

1. All Panel members shall have expertise in international trade law, including in matters covered by the CEFTA Agreement, and in the issues at stake in the specific dispute. The chairperson of the Panel shall also have expertise or experience in dispute settlement proceedings under international trade law.
2. All Panel members shall be independent, impartial, serve in their individual capacities, not take instructions from any organisation or authority, and not be employed by the administration of any of the disputing parties.
3. All Panel members shall be chosen strictly on the basis of objectivity, reliability, and sound judgment, taking into account their substantive expertise in matters of relevance to the specific dispute.
4. All Panel members shall comply with the Code of Conduct in Appendix II to this Protocol.

**Article 20**  
**Lists of Panel Members**

1. Each Party shall, within 30 days from its ratification, acceptance, or approval of this Protocol, notify to the Joint Committee a list of individuals, who are willing and able to serve as Panel members under this Protocol.
2. Each list shall include at least eight individuals with different types of substantive expertise, who may be from the nominating CEFTA Party, from a non-nominating CEFTA Party, or from outside of CEFTA. At least four of those individuals shall be from outside of CEFTA with different types of substantive expertise.
3. Each Party may, at any time, notify to the Joint Committee additional individuals who are willing and able to serve as Panel members under this Protocol.
4. Upon the request of a Party, the Joint Committee may adopt a decision to remove an individual from the list of that Party. Following the removal of an individual, a replacement shall be notified to the Joint Committee on the basis of Paragraph 3 of this Article.
5. The CEFTA Secretariat shall maintain the Parties' lists of Panel members and keep them updated.

**Article 21**  
**List of Chairpersons**

1. Each Party shall, within 30 days from its ratification, acceptance, or approval of this Protocol, submit to the Joint Committee a list of individuals, who are willing and able to serve as chairpersons.
2. Each list shall include a minimum of three and a maximum of five individuals from the nominating CEFTA Party and a minimum of three and a maximum of five individuals from outside of CEFTA. The profiles submitted should reflect diverse types of international trade law expertise.
3. Within 60 days from the entry into force of this Protocol, the Joint Committee shall adopt the list of chairpersons.
4. In case the list of chairpersons is not adopted, chairpersons for specific panel proceedings shall be drawn from the lists of Panel members notified by the non-disputing parties in line with Article 18(6) of this Protocol.
5. Upon the request of a Party, the Joint Committee may adopt a decision to remove an individual from the list of chairpersons. Following the removal of an individual, a replacement shall be nominated to the Joint Committee for adoption and inclusion on the list of chairpersons.
6. The CEFTA Secretariat shall maintain the list of chairpersons and keep it updated.

**Article 22**  
**Function of a Panel**

1. The function of a Panel is to make an objective assessment of the dispute before it, including an objective assessment of the facts of the case and the applicability of and conformity with the

CEFTA Agreement and make such findings, determinations and rulings as are called for in its terms of reference.

2. A Panel shall perform its functions and conduct its proceedings in a manner consistent with the dispute settlement provisions of this Protocol, including the Rules of Procedure in Appendix I to this Protocol.
3. A Panel shall interpret the CEFTA Agreement in accordance with customary rules of interpretation of public international law. A Panel shall take into account relevant interpretations in reports of Panels and the Appellate Body adopted by the WTO Dispute Settlement Body relating to rules of the WTO Agreement that are equivalent in substance to the rules of the CEFTA Agreement.
4. Findings, determinations, and rulings of a Panel cannot add to or diminish the rights and obligations of the Parties under the CEFTA Agreement.

### **Article 23**

#### **Rules of Procedure**

Dispute settlement proceedings before a Panel shall be governed by the Rules of Procedure in Appendix I to this Protocol.

### **Article 24**

#### **Third Party Participation**

1. Any Party, other than the disputing parties, that considers it has a substantial interest in the dispute before the Panel, shall be entitled to participate in the dispute settlement proceeding as a third party. Such Party shall transmit a written notification to the disputing parties within 5 days of the date of circulation of the request for the establishment of the Panel under Article 16 of this Protocol. A third party shall submit its notification to the Joint Committee.
2. Third parties shall be entitled to make written submissions, receive written submissions of the disputing parties, attend all hearings, and present their views orally to the Panel. The submissions by third parties shall be circulated to the disputing parties and shall be reflected in the Panel report.

### **Article 25**

#### **Suspension and Termination of Proceedings**

1. The Panel may suspend its work at any time at the request of the requesting party or, if there is more than one requesting party, at the joint request of the requesting parties. The request for suspension shall specify the period of suspension, which is not to exceed 12 consecutive months. In the event of such a suspension, all relevant time frames set out in Section IV and V of this Protocol and in the Rules of Procedure in Appendix I to this Protocol shall be extended by the amount of time that the work was suspended for.
2. The Panel shall resume its work at the request of the requesting party or the requesting parties. If there is no request for the resumption of the work of the Panel by the end of the period specified in the request for suspension, the Panel shall terminate the proceedings.

3. The Panel shall terminate its proceedings at the joint request of the disputing parties, or if the disputing parties agree to a mutually satisfactory solution. Costs and expenses incurred until such moment shall be apportioned in accordance with Article 15(5) of Appendix I to this Protocol.
4. The requesting Party may withdraw its complaint at any time, which shall terminate the proceedings. Costs and expenses incurred until such moment shall be apportioned in accordance with Article 15(5) of Appendix I to this Protocol.

## **Article 26 Interim Report**

1. The Panel shall present to the disputing parties an interim report within 140 days of the date of composition of the Panel. In cases of urgency, the Panel shall endeavour to present to the disputing parties an interim report within 100 days of the date of composition of the Panel. If the Panel considers that it cannot issue the interim report within 140 days, it shall inform the disputing parties in writing of the reasons for the delay together with an estimate of the period within which it will issue the interim report. Any delay shall not exceed a period of 30 days.
2. The interim report shall contain:
  - a. The factual findings;
  - b. The legal determinations as to whether the measure at issue is inconsistent with the relevant provisions of the CEFTA Agreement;
  - c. The reasons for the factual findings and legal determinations;
  - d. The recommendations for the resolution of the dispute; and
  - e. The recommendation for the reasonable period of time to achieve compliance in line with Article 31 of this Protocol, if the measure at issue is found to be inconsistent with the relevant provisions of the CEFTA Agreement.
3. Each disputing party may submit written comments to the Panel on the interim report within the time limit set by the Panel. After considering any such comments, the Panel may modify the interim report or make any further examination it considers appropriate.
4. The interim report shall be confidential to the disputing parties.

## **Article 27 Final Report**

1. The Panel shall present a final report to the disputing parties within 30 days of the presentation of the interim report to the disputing parties. At the same time, the Panel shall transmit the final report to the Joint Committee.
2. In addition to the findings and determinations referred to in Article 26(2), the final report shall set out the ruling of the Panel, which shall be binding on the disputing parties, and the quantification and apportionment of the costs of the dispute, as well as the level of the nullification or

impairment. The Panel shall apportion such costs on the basis of the time spent on the successful and unsuccessful legal challenges brought by the requesting party or parties on the basis of Article 15(3) of Appendix I to this Protocol, taking into account the participation of third parties.

3. The CEFTA Secretariat shall make publicly available the final report within 10 days of its presentation under Paragraph 1, subject to the protection of confidential, business-confidential, or highly sensitive business-confidential information, in accordance with Article 8 of Appendix I to this Protocol.

### **Article 28** **Binding Arbitration for Appellate Review**

1. Upon agreement of the disputing parties, reached any time before the issuance of the interim report, the final report may be subject to appellate review by means of binding arbitration. The agreement shall be notified to the Joint Committee.
2. Within 30 days of the issuance of the final report and upon the request of one or more disputing parties, the final report shall be subject to appellate review by means of binding arbitration.
3. The appellate review shall be limited to issues of law covered in the final report and legal interpretations developed by the Panel.
4. Three arbitrators shall be drawn from the list of chairpersons established under Article 21(3) of this Protocol and be limited to individuals nominated by the non-disputing parties. If no list of chairpersons has been established under Article 21(3) of this Protocol, the three arbitrators shall be drawn from the lists of Panel members notified by the non-disputing parties and shall be from outside of CEFTA. The arbitrators shall agree on the chairperson for the appellate review. For the drawing of arbitrators, Article 18(3) shall apply, *mutatis mutandis*.
5. For the appellate review, the procedures provided in Section IV and Appendix I to this Protocol shall apply, *mutatis mutandis*.
6. The appellate review report shall be issued within 90 days of the date of the selection of the arbitrators and the related procedural time frames shall be adjusted accordingly.
7. The appellate review report shall be final and binding and shall be notified to the Joint Committee. The CEFTA Secretariat shall make the appellate review report publicly available.

## **Section V: Compliance Procedures**

### **Article 29** **Compliance**

1. The responding party shall promptly take any measure necessary to comply with the ruling in the final report or appellate review report if, in that report, the Panel or the arbitrators determine that the measure at issue is inconsistent with the CEFTA Agreement.
2. No later than 20 days after the date of receipt of the final report or, if appealed, the notification of the appellate review report to the Joint Committee, the responding party shall inform any other

disputing party and the Joint Committee of its intention to comply with the ruling in the final report or appellate review report within the reasonable period of time.

3. Should the responding party fail to notify its intention to comply with the ruling in the final report or the appellate review report or should the responding party notify its intention not to comply with the ruling in the final report or the appellate review report, the requesting party, or, if there is more than one requesting party, the requesting parties, shall be entitled to immediately suspend obligations vis-à-vis the responding party in accordance with Article 33(2) to (6) of this Protocol.

### **Article 30 Reasonable Period of Time for Compliance**

1. If it is impracticable to comply promptly with the recommendations and rulings, the responding party shall adhere to the reasonable period of time within which to achieve compliance, as determined in the final report or the appellate review report.
2. In determining the reasonable period of time for compliance, the Panel or arbitrators shall take into consideration that the reasonable period of time for compliance should not exceed 6 months from the adoption of the final report or the appellate review report.
3. Depending on the particular circumstances of the matter at issue and if the disputing parties agree, the period of time for compliance may be longer than 6 months, but shall not exceed 9 months.
4. The reasonable period of time for compliance determined by the Panel or arbitrators may be extended by mutual agreement of the disputing parties.
5. The responding party shall notify any other disputing Party and the Joint Committee before the end of the reasonable period of time for compliance of the measures it has taken to comply with the ruling in the final report or the appellate review report.

### **Article 31 Compliance Review**

1. Any disagreement on compliance shall be referred to the original Panel established under Article 16 of this Protocol.
2. A disagreement on compliance is deemed to exist where the disputing parties disagree as to whether:
  - a. the responding party has taken a measure to comply with the ruling in the final report or the appellate review report; and/or
  - b. a measure taken to comply with the ruling in the final report or the appellate review report is consistent with the CEFTA Agreement; and/or
  - c. a measure taken to comply with the ruling in the final report or the appellate review report after the suspension of obligations pursuant to Article 34 of this Protocol is consistent with the CEFTA Agreement; and/or

- d. the level of the suspension of obligations pursuant to Article 33(3) of this Protocol is equivalent to the nullification or impairment caused by the inconsistency with the CEFTA Agreement, as determined in the final report or the appellate review report.
3. In the case of a disagreement on compliance under Paragraph 2 of this Article, the requesting party shall reconvene the original Panel by transmitting a written request to the original Panel. If there is more than one requesting party, such a request shall be made at least by one of the requesting parties. A written request to reconvene the original Panel shall be notified to any other disputing party and to the Joint Committee.
4. The original Panel reconvened under Paragraph 3 of this Article shall present its compliance report to the disputing parties within 90 days of the date of the request made in case of a disagreement on compliance. At the same time, the Panel shall transmit the compliance report to the Joint Committee. The CEFTA Secretariat shall make publicly available the compliance report within 10 days of its presentation to the disputing parties, subject to the protection of confidential, business-confidential, or highly sensitive business-confidential information in accordance with the Rules of Procedure in Appendix I to this Protocol.
5. In the event that the original Panel, or one or more of its members, are unable to reconvene for a compliance review, the procedure set out in Article 18 of this Protocol shall apply. The time limit for the presentation of a compliance report to the disputing Parties shall be extended by 30 days.
6. The compliance report shall be binding on the disputing parties.
7. A requesting party shall not suspend obligations in accordance with Article 33 of this Protocol until the Panel has delivered its compliance report.

### **Article 32 Temporary Compensation**

In the absence of compliance by the responding party, the disputing parties may agree to mutually acceptable compensation. Compensation is voluntary and, if granted, shall be consistent with the CEFTA Agreement.

### **Article 33 Suspension of Obligations**

1. The requesting party, or, if there is more than one requesting party, the requesting parties, in the absence of mutually acceptable compensation having been agreed with the responding party under Article 32 of this Protocol, shall be entitled to immediately suspend obligations vis-à-vis the responding party if:
  - a. The responding party fails to notify a measure taken to comply with the ruling in the final report or the appellate review report pursuant to Article 30(5) of this Protocol; or
  - b. The Panel reconvened under Article 31 of this Protocol determines that a measure taken to comply is inconsistent with the CEFTA Agreement.

2. Before suspending obligations, a requesting party shall notify the responding party and the Joint Committee of its intention to suspend obligations, including the level of obligations it intends to suspend.
3. A requesting party may suspend any obligation under the CEFTA Agreement. The level of such suspension shall be equivalent to the nullification or impairment caused by the inconsistency with the CEFTA Agreement, as determined in the final report or the appellate review report. The level of the nullification or impairment shall be calculated as of the date of presentation of the final report or the appellate review report to the disputing parties.
4. A requesting party may implement the suspension of obligations 15 working days after the date of notification under Paragraph 2 of this Article.
5. Any suspension of obligations shall be temporary and shall be applied only until the responding party has taken a measure to comply with the ruling in the final report or the appellate review report, as established under Article 34 of this Protocol, or until the disputing parties have settled the dispute.
6. Nothing in this Protocol shall preclude a Party from implementing the suspension of obligations authorised by the WTO Dispute Settlement Body. No disputing party may invoke the WTO Agreement to preclude any other disputing party from suspending obligations pursuant to this Article.

**Article 34**  
**Compliance After the Suspension of Obligations**

1. When, after the suspension of obligations, the responding party takes a measure to comply with the ruling in the final report or the appellate review report, the responding party shall notify any other disputing party and request an end to the suspension of obligations applied by any requesting party. At the same time, the responding party shall transmit its notification to the Joint Committee.
2. If requesting party considers that the measure taken by the responding party to comply with the ruling in the final report or the appellate review report is inconsistent with the CEFTA Agreement, the requesting party may request to reconvene the Panel in accordance with Article 31(2)(c) and (3) of this Protocol. At the same time, that requesting party shall transmit its request to any other disputing party and to the Joint Committee.
3. Any requesting party shall terminate the suspension of obligations if the Panel determines that the measure taken to comply with the final report or the appellate review report by the responding party is consistent with the CEFTA Agreement.

**Section VI: Final Provisions**

**Article 35**  
**Amendment of the Protocol**

1. The Joint Committee may decide to amend this Protocol.

2. The amended text shall enter into force in accordance with Article 38 of this Protocol.

**Article 36**  
**Adoption or Amendment of Appendices to this Protocol**

1. The Joint Committee may decide to adopt and amend Appendices to this Protocol, which form integral part of this Protocol.
2. Decisions under Paragraph 1 of this Article shall enter into force in accordance with Article 38 of this Protocol.

**Article 37**  
**Amendment of the CEFTA 2006**

This Protocol forms integral part of the CEFTA 2006 and repeals and replaces Articles 42 and 43 of the CEFTA 2006 and Annexes 8 and 9 to the CEFTA 2006 once the Protocol has entered into force for all CEFTA Parties.

**Article 38**  
**Entry into Force**

1. This Protocol is subject to ratification, acceptance, or approval in accordance with the requirements foreseen by Parties' respective regulations. The instruments of ratification, acceptance, or approval shall be deposited with the Depositary.
2. This Protocol shall enter into force once all Parties have deposited their instruments of ratification, acceptance or approval.
3. If the Protocol has not entered into force for all Parties in accordance with Paragraph 2 of this Article within three years from adoption, it shall enter into force on the thirtieth day after the deposit of the fifth instrument of ratification, acceptance, or approval and shall apply, for those Parties that have deposited their respective instrument of ratification, acceptance, or approval, with respect to any dispute with another Party already applying this Protocol.
4. For each Party depositing its instrument of ratification, acceptance or approval after the date of the deposit of the fifth instrument of ratification, acceptance or approval, this Protocol shall enter into force on the thirtieth day after its instrument was deposited, and the Protocol shall apply with respect to any dispute with another Party to which this Protocol already applies.
5. For disputes between Parties that have not yet deposited their respective instrument of ratification, acceptance, or approval, and for disputes between these Parties and Parties that have already deposited their respective instrument of ratification, acceptance, or approval, Articles 42 and 43 of and Annexes 8 and 9 to the CEFTA 2006 shall continue to apply.

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Adopted in the presence of representatives of all CEFTA Parties.

Done in Belgrade, on 9 October 2024, in a single authentic copy in the English language and deposited with the Depositary of the CEFTA Agreement, which shall transmit certified copies to all Parties of the CEFTA Agreement.

## **Appendix I: Rules of Procedure**

### **Article 1 Communications**

1. Unless otherwise requested by a party concerned, all communications made by the parties concerned and by the Panel shall occur via the CEFTA Secretariat. A party concerned may decide that information designated as confidential, business-confidential, or highly sensitive business-confidential not be communicated via the CEFTA Secretariat, but through any other means coordinated with the CEFTA Secretariat and subject to the modalities proposed on a case-by-case basis by the CEFTA Secretariat and agreed by the designating party concerned.
2. There shall be no *ex parte* communications between the parties concerned and the Panel concerning matters under consideration by the Panel.
3. Any official oral or written communication made by the parties concerned and by the Panel shall be in English. The interim report, the final report, and the appellate review report shall be issued in English.
4. A dedicated electronic communication system shall be put in place and maintained by the CEFTA Secretariat and, unless otherwise requested by a party concerned, any written communication or documents shall be transmitted via the electronic communication system. A party concerned may decide that information designated as confidential, business-confidential, or highly sensitive business-confidential not be shared via the electronic communication system, but by any other means coordinated with the CEFTA Secretariat.
5. Until the establishment of an online communication system, unless otherwise requested by a party concerned, the parties concerned and the Panel shall transmit any written communication or document to the CEFTA Secretariat electronically and by filing a paper copy. A party concerned may decide that information designated as confidential, business-confidential, or highly sensitive business-confidential not be shared electronically and by filing a paper copy, but by any other means coordinated with the CEFTA Secretariat.
6. Unless proven otherwise, the date and time of filing of the document on the electronic communication system, or the confirmation by the CEFTA Secretariat of the delivery of the paper copy or of the submission by other means coordinated with the Secretariat, shall be proof of transmission for all procedural purposes.
7. Minor errors of a clerical nature in a document may be corrected by delivery of a new document, which clearly indicates the changes made and replaces the initial document. Such replacement does not affect the timely delivery of the original document.
8. If the last day for delivery of a document falls on an official holiday in a party concerned, the deadline shall be extended to the first available working day thereafter.

### **Article 2 Access to Information**

1. The modalities to access information designated by a disputing party or third party as confidential, business-confidential, or highly sensitive business-confidential shall be proposed on a case-by-

case by the CEFTA Secretariat and agreed by the designating party. These modalities shall identify the restricted list of specific individuals that are to be allowed to access the information.

2. Panel members representatives of the other disputing party or disputing parties shall have access to all information, including information designated as confidential, business-confidential, or highly sensitive business-confidential.

### **Article 3 Commencement of the Proceeding**

1. Unless the parties concerned agree otherwise, they shall meet the Panel within 5 working days of the date of its composition under Article 18 of the Additional Protocol 7 in order to determine those administrative and logistical matters of the proceeding that the parties concerned or the Panel deem appropriate, including the electronic addresses where documents are to be delivered, the telephone numbers, and computer links for purposes of communication between the parties concerned and the Panel.
2. The Panel shall consult with the parties concerned on the expected costs of the proceeding with a view to minimising such costs.
3. The Panel and representatives of the parties shall conduct the activities under Paragraph 1 and 2 of this Article by means of electronic communication.

### **Article 4 Working of the Panel**

1. The chairperson of the Panel shall preside over all meetings of the proceeding. The chairperson of the Panel has the authority to make decisions on administrative matters of the proceeding. The Panel may delegate to the chairperson the authority to make decisions on procedural matters of the proceeding.
2. Hearings before the Panel shall take place in person, unless agreed otherwise by the disputing parties. With respect to the modalities for holding the hearing, and prior to engaging in any action that may result in costs, the Panel shall consult the disputing parties. Unless otherwise provided in this Section, the Panel shall conduct any other activities by means of electronic communication.
3. Only Panel members may participate in the deliberations of the Panel. The Panel may permit its assistant to be present at its deliberations.
4. The drafting of any ruling, the interim report, the final report, and the appellate review report shall remain the exclusive responsibility of the Panel or the arbitrators and must not be delegated to any third person.
5. Findings, reasoning, determinations, and rulings of the Panel should be made by consensus. If no consensus can be reached, findings, reasoning, determinations and rulings of the Panel shall be made by a majority of its members.
6. No Panel member may issue a separate opinion unless all Panel members agree otherwise, in which case the opinion expressed in the Panel report or appellate review report by the dissenting panel member or arbitrator shall be anonymous.

7. Where a procedural question arises in the proceeding that is not covered by the provisions of Sections IV and V of the Additional Protocol 7, the Panel, after consulting the parties concerned, may adopt an appropriate procedure that is compatible with those provisions and that ensures equal treatment of all parties concerned.
8. Upon request by a party concerned, or if the Panel considers that there is a need to modify any time limit applicable in the proceeding or to make any other administrative or procedural adjustment, as may be required for the fairness or efficiency of the proceeding, the Panel shall propose a reasonable modification or adjustment and consult the disputing parties. The Panel shall promptly inform the Parties of its decision and of the reasons for its decision. Unless otherwise provided in the Additional Protocol 7, in no case should the modification of a time limit exceed 10 days or one third of the length of the time limit being extended.
9. The Panel shall not meet or contact a party concerned in the absence of any other party concerned. No Panel member shall discuss any aspect of the proceeding with a party concerned or the parties concerned in the absence of the other Panel members.

#### **Article 5 Written Submissions**

1. The requesting party shall deliver its initial written submission to the Panel no later than 20 days after the date of composition of the Panel under Article 18 of the Additional Protocol 7. The same deadline applies if there is more than one requesting party.
2. The responding party shall deliver its written counter-submission to the Panel no later than 25 days after the date of delivery of the initial written submission by the requesting party.
3. Any third party shall deliver its written submission to the Panel no later than 15 days after the date of delivery of the written counter-submission by the responding party.
4. After the hearing before the Panel, the parties concerned may submit to the Panel a supplementary written submission concerning any matter that arose during the hearing within 10 days of the date of the hearing. The same applies if there is an additional hearing pursuant to Article 6(2) of this Appendix.

#### **Article 6 Hearings**

1. Within 5 days from the delivery of the third party submissions or within 5 days from the delivery of the counter-submission by the responding party when there are no third parties, the chairperson of the Panel shall fix the date, time, and, if held in person, the location of the hearing in consultation with the disputing parties and the other Panel members. The hearing shall be held no later than 10 days after the delivery of the third party submissions or, when there are no third parties, no later than 25 days after the delivery of the counter-submission by the responding party.
2. As a general rule, there should be only one hearing. If the dispute involves issues of exceptional complexity, the Panel may, on its own initiative or at the request of a disputing party, convene one additional hearing.

3. All Panel members shall be present during the entirety of the hearing.
4. Unless the disputing parties decide otherwise, the hearings of the Panel shall be closed to the public.
5. The following persons may attend the hearing, irrespective of whether the hearing is open or closed to the public:
  - a. Representatives of the parties concerned;
  - b. Advisers to the parties concerned;
  - c. The assistant to the Panel;
  - d. Interpreters, if invited by the Panel, as agreed between the Panel and the disputing parties; and
  - e. Experts, if invited by the Panel, as agreed between the Panel and the disputing parties.
6. No later than 5 days before the date of the hearing, each party concerned shall deliver to the Panel and to the other parties concerned a list of the names of persons, who will make oral arguments or presentations at the hearing on behalf of that party concerned, and of other representatives or advisers, who will attend the hearing.
7. The Panel shall conduct the hearing in the following manner, ensuring that each party concerned is afforded equal time:

*Argument*

- a. Argument of the requesting party or parties
- b. Argument of the responding party
- c. Argument of the third party or parties

*Rebuttal argument*

- d. Reply of the requesting party or parties
- e. Counter-reply of the responding party

8. The Panel may direct questions to any party concerned at any time during the hearing.
9. The Panel, after having received from the parties concerned the written version of the arguments, the rebuttal arguments, and the replies to the questions of the Panel, shall promptly circulate all the documents received among the parties concerned.

**Article 7**  
**Written Questions**

1. The Panel may at any time during the proceeding address written questions to any party concerned. Each party concerned shall receive a copy of any written questions by the Panel.
2. The party concerned to which the written questions are addressed shall provide a written response within the deadline set by the Panel. That party concerned shall also provide any other party concerned with a copy of its written response to the written questions. Any other party

concerned shall be given the opportunity to provide written comments on the written response within 10 working days of the date of receipt.

### **Article 8 Transparency and Confidentiality**

1. The hearings of the Panel shall be held in closed session when the submissions and arguments of a party concerned contain confidential, business-confidential, or highly sensitive business-confidential information. The parties concerned shall maintain the confidentiality of the hearings held in closed session.
2. Each party concerned may make its written submissions publicly available, subject to the protection of any confidential, business-confidential, or highly sensitive business-confidential information. Where a party's submission to the Panel contains such information, that party shall provide, within 10 days of the date of delivery of the submission, a non-confidential or redacted version of the submission that could be disclosed to the public.
3. Each party concerned and its advisers shall treat as confidential, business-confidential, or highly sensitive business-confidential any information submitted by any other party concerned to the Panel that that party has designated as confidential.

### **Article 9 Information and Technical Advice**

1. At the request of a disputing party or on its own initiative the Panel may seek information and technical advice from any person or body that it deems appropriate. The Panel shall inform the disputing parties accordingly.
2. Where the person or the body concerned is from any disputing party, the Panel shall inform that party before seeking such information or advice. Any information obtained by the Panel must be disclosed to the disputing parties and submitted for their comments. Confidential information provided to the Panel must not be revealed without formal authorization from the person or body providing that information.

### **Article 10 *Amicus Curiae* Briefs**

1. Unless the disputing parties agree otherwise within 5 days of the date of composition of the Panel, the Panel may receive unsolicited *amicus curiae* briefs from any natural or legal person, established in the disputing party and not belonging to an administration thereof. In its interim report, final report, or appellate review report the Panel shall list all such briefs it has received, provided that they conform to the rules under Paragraph 2. The Panel shall not be obliged to address in its interim report, final report, or appellate review report the arguments made in such briefs.
2. Any *amicus curiae* brief referred to in Paragraph 1 of this Article shall be submitted to the Panel within 15 days of the date of composition of the Panel under Article 18 of the Additional Protocol 7. Any such brief shall be drafted in English, shall not exceed 15 typed pages, excluding any annexes, and shall be directly relevant to the dispute under consideration by the Panel. Any such

brief shall contain a description of the person submitting the brief, including that person's activities and source of financing, and specify the nature of the interest that that person has in the proceeding. The Panel shall submit to the disputing parties for their comments any *amicus curiae* brief it has received. The comments of the disputing parties shall be submitted in writing to the Panel by a deadline established by the Panel.

## **Article 11 Urgent Cases**

In cases of urgency pursuant to Article 16(1) of the Additional Protocol 7, the Panel, after consulting the disputing parties, shall adjust the time limits referred to in this Section as appropriate and shall notify the parties concerned of such adjustments.

## **Article 12 Replacement of Panel Members**

1. If any Panel member is unable to serve in a given proceeding, or withdraws from it, a replacement shall be selected in accordance with Article 18 of the Additional Protocol 7.
2. Where a disputing party considers that a Panel member does not comply with the Code of Conduct in Appendix II to the Additional Protocol 7 and for this reason must be replaced, that Party shall notify all other disputing parties within 10 days from the time it became aware of the circumstances underlying that member's non-compliance with the Code of Conduct and provide relevant information or evidence in this regard.
3. Where the notification under Paragraph 2 concerns a Panel member other than its chairperson, the disputing parties shall consult, and if they so agree, dismiss that member and select a replacement in accordance with Articles 18(3), (4), and (5) of the Additional Protocol 7. If the disputing parties fail to agree on the need to dismiss and to select a replacement of that member, any disputing party may request that the matter be referred to the chairperson of the Panel, whose decision shall be final.
  - a. If the chairperson of the Panel finds that the member in question does not comply with the Code of Conduct, the chairperson of the Panel shall draw by lot a replacement from the list referred to in Article 20 of the Additional Protocol 7 on which the original member was included. If the original member was chosen by the disputing Parties pursuant to Article 18(4) of the Additional Protocol 7, the chairperson of the Panel shall draw by lot a replacement from the combined lists established by the disputing parties under Article 20 of the Additional Protocol 7. The replacement shall be selected within 5 working days of the submission of the request to the chairperson of the Panel.
  - b. If the chairperson of the Panel finds that the member in question complies with the Code of Conduct, the member shall remain in office.
4. Where the notification under Paragraph 2 concerns the chairperson of the Panel, the disputing parties shall consult, and if they so agree, dismiss the chairperson and select a replacement in accordance with Articles 18(3) and 18(6) of the Additional Protocol 7. If the disputing parties fail to agree within 10 days from the notification under Paragraph 2 of this Article, the CEFTA Secretariat shall, within 5 working days, draw by lot a replacement from the list referred to in Article 21 of the Additional Protocol 7, excluding the name of the original chairperson of the Panel.

5. The CEFTA Secretariat shall invite and give a reasonable opportunity to representatives of each disputing party to be present, by any means, when the lots are drawn.
6. The proceeding shall be suspended for the period taken to carry out the procedure provided for in this provision.

### **Article 13**

#### **Time limits**

1. All time limits set out in this Appendix shall be counted in calendar days from the day following the act or fact to which they refer, unless otherwise specified. Where, by reason of the application of Article 1(8) of this Appendix, a party concerned receives a document on a date other than the date on which that document is received by any other party concerned, any period of time that is calculated on the basis of the date of receipt of that document shall be calculated from the last date of receipt of that document.
2. The time limits set out in this Appendix shall be adjusted in accordance with the special time limits provided for the presentation of a compliance report to the disputing parties under Article 31(4) and (5) of the Additional Protocol 7.

### **Article 14**

#### **Logistics**

The CEFTA Secretariat, in coordination with the disputing parties and the Panel members, shall be in charge of the logistical administration of the proceeding, in particular the organisation of hearings and the administrative requirements related to Panel members and the assistant to a Panel, such as remuneration, travel costs and allowances, and the handling of documents uploaded in the online communication system related to the proceeding.

### **Article 15**

#### **Costs**

1. Each party concerned shall bear its own costs derived from the participation in the panel procedure.
2. The expenses related to the proceedings, namely all travel, lodging, and general expenses incurred by the Panel members and the assistant to the Panel, as well as the remuneration of the Panel members and the assistant to the Panel, shall be quantified and apportioned between the parties concerned by the Panel and provided in a dedicated part of the final report. This part of the final report shall be confidential, unless otherwise agreed by the disputing parties.
3. The Panel shall apportion the costs related to expenses and remuneration on the basis of the time spent on the successful and unsuccessful legal challenges brought by the requesting party, also taking into account the participation of third parties. The requesting party shall bear the costs related to expenses and remuneration in proportion to the unsuccessful legal challenges, the responding party shall bear the costs related to expenses and remuneration in proportion to the successful legal challenges. Any third party shall bear the additional costs attributed by the Panel to its participation.

4. Panel members and the assistant to the Panel shall keep a record and render a final account of the time devoted to the proceeding and of their respective expenses. The timekeeping shall reflect the work done by the Panel in relation to each legal challenge brought by the requesting party and shall then be used to apportion the costs. The decision of the Panel on the apportionment of the costs shall be final and binding on the disputing parties, unless the panel report is appealed, in which case the decision on the apportionment of the costs shall be provided in the appeal decision, which shall be final and binding.
5. Should the disputing parties reach a mutually agreed solution that leads to the termination of the dispute, the costs related to expenses and remuneration accrued until that time shall be borne equally by the disputing parties, unless otherwise agreed by the disputing parties. Should a requesting party decide to withdraw its complaint, the costs related to expenses and remuneration accrued until that time shall be borne in full by that requesting party, unless agreed otherwise by the disputing parties.
6. The daily fee of the Panel members shall be equal to the daily fee accorded to Panel members in dispute settlement proceedings at the World Trade Organization. The Joint Committee may decide to amend the daily fee at any time.
7. The hourly fee for the assistant to the Panel shall not exceed 50% of the hourly fee of the Panel members.

#### **Article 16** **Dispute Settlement Fund**

1. The Parties hereby establish the Dispute Settlement Fund, which shall be separate from other CEFTA funds and initially drawn from the CEFTA Open Fund, and shall be used to prefinance disputes governed by the Additional Protocol 7.
2. As soon as possible and no later than 45 days after the entry into force of the Additional Protocol 7, the Joint Committee shall determine the initial amount to be made available on the Dispute Settlement Fund in case of a dispute. The financial resources shall be transferred from the Open Fund to the Dispute Settlement Fund upon the request for the establishment of a Panel.
3. The financial resources for dispute settlement proceedings shall be drawn by the CEFTA Secretariat from the Dispute Settlement Fund and be limited to the individual shares of each disputing party, which shall be proportional to their respective contributions to the budget of the CEFTA Secretariat.
4. The Joint Committee may decide to adjust the amount available in the Dispute Settlement Fund by increasing or reducing it as needed.
5. Any contribution to the Dispute Settlement Fund shall be deposited in a bank account administered by the CEFTA Secretariat. The CEFTA Secretariat shall be responsible for administering the Dispute Settlement Fund.
6. The Dispute Settlement Fund shall be used to pay the costs related to the proceeding as defined in Article 15 of this Appendix.
7. Any drawdown from the Dispute Settlement Fund, as calculated by the CEFTA Secretariat, shall be replenished by the parties concerned in line with the determination on the apportionment of costs

by the Panel in the final report or the appellate review report. Once the Dispute Settlement Fund has been replenished, the amount shall be returned to the CEFTA Open Fund.

8. Should a Party not comply, within 30 days of the respective notification by the CEFTA Secretariat, with the obligation provided in Paragraph 7 of this Article, it shall be suspended from using this Protocol as a requesting party and third party until such time as compliance is achieved. The suspension and the end of the suspension shall be notified by the CEFTA Secretariat to the Joint Committee.
9. The CEFTA Secretariat shall submit a financial report on the Dispute Settlement Fund to the Joint Committee on an annual basis.

#### **Article 17** **Scope**

The Rules of Procedure contained in this Appendix shall apply to the Panel proceedings and, *mutatis mutandis*, to binding arbitration for appellate review.

## **Appendix II: Code of Conduct**

### **Article 1**

#### **Responsibilities of Candidates and Members of the Panel**

Every candidate and member of the Panel shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests, and shall observe high standards of conduct so that the integrity and impartiality of the Panel are preserved during the proceedings. Former Panel members shall comply with the obligations established in Articles 1 and 2 of this Appendix.

### **Article 2**

#### **Disclosure Obligations**

1. Prior to confirmation of her or his selection as a Panel member, a candidate shall disclose any interest, relationship or matter that is likely to affect her or his independence or impartiality, or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of such interests, relationships, and matters.
2. Notwithstanding the foregoing, candidates shall disclose the following interests, relationships and matters:
  - a. any financial interest of the candidate in: (i) the proceeding or its outcome, and (ii) an administrative proceeding, a court proceeding or another arbitration proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
  - b. any financial interest of the candidate's employer, partner, business associate or family member in: (i) the proceeding or its outcome, and (ii) an administrative proceeding, a court proceeding or another arbitration proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
  - c. any existing or past financial, business, professional, family or social relationship with the interested parties in the proceeding, or their counsel, or such relationship involving a candidate's employer, partner, business associate or family member;
  - d. any criminal convictions; and
  - e. public advocacy or legal or other representation concerning an issue under consideration in the proceeding or involving the same matters.
3. A candidate or Panel member shall communicate any actual or potential violation of this Code of Conduct to the disputing parties for their consideration.
4. Once selected, a Panel member shall continue to make all reasonable efforts to become aware of interests, relationships, or matters referred to in Paragraph 1 of this Article and shall disclose them. The disclosure obligation is a continuing duty, which requires a Panel member to disclose any such interests, relationships, or matters that may arise during all stages of the proceeding. Any disclosure shall be made by informing the disputing parties, in writing, for their consideration.

**Article 3**  
**Independence and Impartiality of Panel Members**

1. A Panel member shall avoid creating an appearance of bias, and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party, or fear of criticism.
2. A Panel member shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of her or his duties.
3. A Panel member may not use her or his position within the Panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence her or him.
4. A Panel member may not allow financial, business, professional, family, or social relationships or responsibilities to influence her or his conduct or judgment.
5. A Panel member shall avoid entering into any relationship or acquiring any financial interest that is likely to affect her or his impartiality or that might reasonably create an appearance of impropriety or bias.

**Article 4**  
**Duties of Panel Members**

1. Upon selection, a Panel member shall be available to perform and shall perform her or his duties thoroughly and expeditiously throughout the course of the proceeding, with fairness and diligence.
2. A Panel member shall consider only the issues raised in the proceeding and shall not delegate this duty to any other person.
3. A Panel member shall not engage in *ex parte* communications concerning the proceeding.

**Article 5**  
**Confidentiality**

1. No Panel member shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding, except for the purposes of that proceeding, and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others, or to adversely affect the interest of others.
2. A Panel member shall not disclose an interim report, a final report, or appellate review report, or parts thereof, prior to the respective publication.
3. No Panel member shall at any time disclose the deliberations of a Panel, or any Panel member's view.

**Article 6**  
**Obligations of Former Panel Members**

All former Panel members shall avoid any action that may create the appearance that they were biased in carrying out their duties or that they derived any advantage from the findings, determinations, or rulings of the Panel.

**Article 7**  
**Scope**

The duties and responsibilities under this Code of Conduct apply, *mutatis mutandis*, also to the assistant to a Panel and to the arbitrators tasked with the binding arbitration for appellate review.

## **Adoption of the CEFTA Additional Protocol 7 on Dispute Settlement**

This *Additional Protocol 7 on Dispute Settlement* was adopted by all CEFTA Parties in the presence of their representatives, except by Albania and Bosnia and Herzegovina, which made a reservation regarding the fulfilment of their respective legal requirements for the adoption of the *Additional Protocol 7 on Dispute Settlement*.

Pursuant to Article 41(3) of the CEFTA 2006, *Additional Protocol 7 on Dispute Settlement* shall be considered as adopted once Albania and Bosnia and Herzegovina have confirmed to the Depositary that their respective legal requirements for the adoption have been fulfilled and it shall enter into force in line with Article 38 of the *Additional Protocol 7*.